IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FARAD CONTINUATION SHEET
CIVIL APPLICATION NO.4018 OF 2005
IN
FIRST APPEAL NO.1730 OF 2005

Office Notes,Office memorandum of Coram, appearances,Court's orders or directions & Registrar's orders.	Court's or Judge's orders

Mr.P.K.Hushing for the Applicant
Ms Mumta i/b Ms Aparna Shinde for the Respondent

CORAM: A.S.OKA, J.
DATED: JULY 24, 2006.

P.C.:

1. Heard Advocate for the Applicant and the learned Advocate for the Respondent.

2. The learned Advocate for the Applicant submitted that the Trial Court had no jurisdiction to pass a decree as there was arbitration clause in the contract between the parties. He submitted the decree passed is without jurisdiction and therefore, stay may be granted subject to deposit of 50% of the decretal amount which is already deposited by the Appellant.

3. I have considered the submissions. The normal rule is that a money decree cannot be stayed unless entire decretal amount is deposited by the Applicant. No

case is made out for making a departure from the normal rule. The suit arises out of a commercial transaction between the parties.

4. Hence, Application is disposed of by passing the following order :

i) There will be interim relief in terms of prayer clause (a) subject to the condition of the Applicant depositing the entire decretal amount with the Trial Court within a period of 16 weeks from today.

ii) If the amount is not deposited within stipulated period, interim stay granted will stand vacated without reference to the Court.

iii) If the amount is deposited within stipulated period, the Trial Court will invest the same in fixed deposit in any nationalised bank initially for a period of 5 years and thereafter the fixed deposit shall be renewed from year to year till the final disposal of the Appeal.

iv) The order regarding disbursement of

the amount of interest will be passed at the final disposal of the Appeal.

Judge.